

Docket No. F-9125

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REMARKS

Claims 1, 2 and 5-9 remain pending in this application. Claims 1, 2 and 5-7 are rejected. Claims 8 and 9 are restricted by the Examiner based upon original presentation. Claim 3 and 4 are previously cancelled. Claim 1 is amended herein to clarify the invention.

CLAIM REJECTIONS UNDER 35 U.S.C. §103(a)

Claims 1 and 2 are rejected as obvious over the Ramsey ('188) reference in view of the Kanamori ('020) reference under 35 U.S.C. §103(a). The applicant herein respectfully traverses these rejections. For a rejection under 35 U.S.C. §103(a) to be sustained, the differences between the features of the combined references and the present invention must be obvious to one skilled in the art.

It is again submitted that neither the Ramsey nor Kanamori reference teach the feature that the change payer is provided in the main body case with the oil supplier apparatus. In the Advisory Action of July 16, 2009, the Examiner responds to this assertion by again citing the Ramsey reference at col. 3, lines 12-24, instead of the previous citation of col. 3, lines 12-61. It appears the Examiner is clearly misunderstands the cited passage wherein it states that the fuel *island* includes "an automated vending machine for accepting cash from a customer as

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payment for fuel and for dispensing cash as change, if needed, as part of the motor fuel purchase." This *does not* state the change payer is in the same main case as the fuel dispenser. It *does not* make an allusion to the case in which the fuel dispenser is provided. It *does not* even state where the control means is and it is not at all understood why the Examiner includes this in the Advisory Action statement. It is respectfully requested that the Examiner again review this passage.

The Advisory Action further cites Ramsey at column 11, lines 40-51. This text reference Fig. 9 which shows nothing more than an exploded view of a change dispenser. Nowhere is shown the change dispenser in the same main body case as the fuel supply mechanism. Applicant does not contest that a change dispenser is taught in the Ramsey reference, but instead seeks to emphasize that the Ramsey reference in *no way* teaches the change dispenser is in the same case as the oil supply mechanism as clearly required by the claims. Indeed, the passage cited by the Examiner clearly indicates the change dispenser is in the cash console 25', another embodiment of cash console 25, which has explicitly referenced in the last response wherein it is stated that:

However, a review of the Ramsey reference reveals that the change payer is separately located from the oil supply apparatus shown at 35 in Fig. 3. The customer engaging console 25 houses the automated vending machine for dispensing currency and change. Figs. 4 and 6 show the currency and cash dispensers as 49 and 47, apart from the pump apparatus 35. In Fig. 6 these dispensers are shown in a casing which is clearly separate from the one main body casing of the oil supply apparatus. The dispensers are shown along

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with the customer interface controller 39 for controlling the associated cash dispenser, and the combination is thus clearly shown within the housing of the customer engaging console 25, and not the pump housing 35.

If the Examiner seeks to maintain this rejection it is earnestly requested that the Examiner explain how the cited portions of the Ramsey reference are believed to teach a cash dispenser in a same housing, i.e., the main body case, as the oil supply mechanism. So far, none of the cited portions of the Ramsey reference provide a teaching of the claimed subject matter relating to the cash dispenser being in the same housing as the oil supply mechanism

Even more important than the change dispenser being in the main body case with the oil supply mechanism, claim 1 also requires the following timing feature:

the change payer being configured to enter a waiting state in response to an off signal of the nozzle switch and to make a shift to an idling state after lapse of a certain time period after receiving the off signal and not receiving the instruction signal instructing the change disbursement process.

In response to applicants extensive explanation that the Ramsey reference makes no showing of such a feature, the Examiner replies in the Advisory Action:

Ramsey in 12:38-65 stated that incorporated into the system 100 is a timing means, such as fueling timer 200 integrated in the fuel pump 102 that is stated (sic) by the enablement signal sent by the system controller 10. this (sic) timer permits (sic) the pump from staying in an "on" position for extended periods of time where not

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(sic) further activity is sensed at the pump 102 or the cash console 25' by the system controller 108 (it is obvious that when it is not on it is empty of idle state). Thus the finality of the previous office action (Final Rejection) is maintained.

A review of the Examiner's statement above reveals absolutely no indication that the *cash payer* is placed in a wait state when a nozzle switch signal is received, and more importantly, provides no suggestion that the *change payer* is configured to return to an idling state "after lapse of a certain time period after receiving the off signal *and* not receiving the instruction signal instructing the change disbursement process." The above recitation by the Examiner is in respect to *fueling timer* for the fuel pump 102, *not a timer arrangement of the cash dispenser*. This has no bearing on how the change dispenser of Ramsey is configured. Indeed, *nowhere* in the Ramsey reference is a *wait state* or an *idling state* discussed with regard to the change dispenser in the Ramsey reference. If the Examiner disagrees, it is earnestly requested that the Examiner specifically point out where such a teaching is found. Reliance on a timer for a fuel pump does not provide teaching related to a change dispenser, and is not an inherent teaching of such either.

In the last Office Action the Examiner contended that it would be obvious for a time delay to exist between the return of the nozzle and the disbursement of change. Again, the rejection in the Office Action in no way addresses the subject matter of the claim. Whether a delay exists between the return of the nozzle and

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disbursement of the change is *irrelevant* to the lapse of certain time period after the nozzle switch signal places the change payer into a wait state and the time the change payer enters an idling state when *no change disbursement signal is received*. Indeed, the Examiner's scenario is one where a disbursement signal is produced to result in the disbursement. As such, it is submitted that the noted subject matter of the claim 1 is not considered in the rejection set forth and is not disclosed by the references.

It is again further explained that the Ramsey reference is also *deficient* for supporting an inherency based rejection. The certain time lapse which places the change payer into the idle state is not disclosed in the Kanamori reference and there is no indication that a waiting period of the "certain time" lapse would serve any purpose. In the present invention, the change payer enters an idle state in the event a change disbursement signal is not received by the change payer and a certain time lapses. The portions of the references the Examiner appears to rely on are the Ramsey reference at col. 12, lines 39-48, and the Kanamori reference at col. 4, lines 1-27.

It is respectfully submitted that providing only citations to text portions of the Ramsey reference fails to state a *prima facie* case of anticipation or obviousness, not only because insufficient teaching is provided by the Ramsey reference, but also because no explanation of how the text is considered to disclose

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the claimed invention is provided. Hence, it is submitted that the Examiner has not provided sufficient reason for a waiting period of a certain time to be executed prior to returning the change payer to the idling state.

It is also submitted that the claimed "certain time" lapse and idling operation is not inherent in the references. Since the features of the above referenced claims are not specifically recited, the reference must be sufficient to support an inherent disclosure of the subject matter. In *In re Rijckaert*, 28 USPQ2d 1955 (CAFC 1993) the Examiner merely assumed various features were in the reference and relied upon inherency to provide a teaching of the various features of a rejected claim which were not explicitly stated or implied in the reference.

The Court of Appeals of the Federal Circuit stated that:

"The mere fact that a certain thing *may* result from a given set of circumstances is not sufficient [to establish inherency.]" *In re Oelrich*, 666 F.2d 578# 581-82, 212 USPQ 323, 326 (CCPA 1981) (citations omitted) (emphasis added). "That which may be inherent is not necessarily known. Obviousness cannot be predicated on what is unknown." *In re Spormann*, 363 F.2d 444, 448, 150 USPQ 449, 452 (CCPA 1966). Such a retrospective view of inherency is not a substitute for some teaching or suggestion supporting an obviousness rejection. See *In re Newell*, 891 F.2d 899, 901, 13 USPQ2d 1248, 1250 (Fed. Cir. 1989).

In re Rijckaert, 28 USPQ2d 1955, 1958 (CAFC 1993). The court concluded that the Examiner had failed to even state a *prima facie* case of obviousness because of the unfounded assumptions of the Examiner and therefore indicated that the

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applicant need not have rebutted the rejection with arguments against a finding of obviousness.

It would appear that one skilled in the art would practice the inventions of the applied references by simply having a change payer responsive to control signals when they arrive. It is not explained how the applied references suggest the "certain time" lapse leading to the idling state recited in claim 1 and therefore it is respectfully submitted that claim 1 is nonobvious based on this feature because the feature is not disclosed by the references and is not inherent in the references.

Thus, it is respectfully submitted that the rejected claims are not obvious in view of the cited reference(s) for the reasons stated above. Reconsideration of the rejections of claims 1 and 2 and claims dependent therefrom and their allowance are respectfully requested.

The remaining rejected claims 5-7 are variously rejected over the above references in view of the Cull and Spelter references. It is respectfully submitted that the proffered combination of references cannot render the rejected claims obvious because the secondary Cull and Spelter references do not provide the teachings noted above with respect to the obviousness rejections of claims 1 and 2 that are absent from the primary Ramsey reference and secondary Kanamori reference. Thus, the combination of prior art references fails to teach or suggest

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all the claim limitations. Therefore, reconsideration of the rejections of claims 5-7 and their allowance are respectfully requested.

REQUEST FOR EXTENSION OF TIME

Applicant respectfully requests a second month extension of time for responding to the Office Action. Please charge the fee of \$360.00 for the extension of time to Deposit Account No. 10-1250.

If there is any discrepancy between the fee(s) due and the fee payment authorized, the USPTO is hereby authorized to charge any fee(s) or fee(s) deficiency or credit any excess payment to Deposit Account No. 10-1250.

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In light of the foregoing, the application is now believed to be in proper form for allowance of all claims and notice to that effect is earnestly solicited.

Respectfully submitted,
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